IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 19004 of 2007(K)

PETITIONER:

RAMESH V.NAIR, PROPRIETOR, THRIVENI
RUBBER TRADERS, AYIRAKUZHI P.O., CHITHARA,
KOLLAM DISTRICT.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS:

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1. THE SALES TAX OFFICER, ANCHAL, KOLLAM
DISTRICT.

2. THE FAST TRACK ASSESSMENT TEAM,
COMMERCIAL TAXES,
KOLLAM.

3. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

4. THE SALES TAX OFFICER,
NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT.

5. A.J.THOMAS, PROPRIETOR,
M/S.AMBATTU RUBBER STORES, POTTY BUILDING,
THEVANCODE, KALLIKKAD, MYLAKKARA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1(a) : COPY OF THE PURCHASE BILL DATED 30/08/2003 ISSUED TOT HE PETITIONER BY THE 5TH RESPONDENT.

P1(b) : COPY OF THE PURCHASE BILL DATED 03/09/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(c) : COPY OF THE PURCHASE BILL DATED 06/09/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(d) : COPY OF THE PURCHASE BILL DATED 16/09/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(e) : COPY OF THE PURCHASE BILL DATED 20/09/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(f) : COPY OF THE PURCHASE BILL DATED 26/09/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(g) : COPY OF THE PURCHASE BILL DATED 01/10/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(h) : COPY OF THE PURCHASE BILL DATED 08/10/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(i) : COPY OF THE PURCHASE BILL DATED 14/10/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(j) : COPY OF THE PURCHASE BILL DATED 06/11/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(k) : COPY OF THE PURCHASE BILL DATED 11/12/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(l) : COPY OF THE PURCHASE BILL DATED 24/12/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(m) : COPY OF THE PURCHASE BILL DATED 30/12/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(n) : COPY OF THE PURCHASE BILL DATED 23/10/2003 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(o) : COPY OF THE PURCHASE BILL DATED 03/10/2004 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

P1(p) : COPY OF THE PURCHASE BILL DATED 13/01/2004 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

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P2 : COPY OF THE REPRESENTATION DATED 24/02/2005 SUBMITTED BY THE INDIAN RUBBER DEALERS FEDERATION, KOTTAYAM TOT HE 3RD RESPONDENT.

P3 : COPY OF THE LETTER DATED 25/11/2005 RECEIVED BY THE PRESIDENT, INDIAN RUBBER DEALERS FEDERATION, KOTTAYAM from the 3RD RESPONDENT.

P4 : COPY OF THE REPRESENTATION DATED 13/03/2007 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P5 : COPY OF THE LETTER DATED 25/05/2007 RECEIVED BY THE PETITIONER FROM THE 3RD RESPONDENT.

P6 : COPY OF THE NOTICE DATED 23/05/2007 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT UNDER SEC. 17(3) OF THE KGST ACT.

P7 : COPY OF the REPRESENTAITON DATED 15/06/2007 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

P8 : COPY OF THE REPRESENTATION DATED 11/06/2007 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 4TH RESPONDENT.

P9 : COPY OF THE JUDGMENT DATED 22/07/2005 IN WP(C) No. 21787/2005.

P10 : COPY OF THE JUDGMENT DATED 24/03/2006 IN WP(C) No. 34811/2005.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 19004 of 2007

Dated, this the 31st day of July, 2007

J U D G M E N T

Heard learned counsel for the petitioner and learned Government Pleader for the respondents 1 to 4. There is no appearance for 5th respondent. Petitioner sold rubber to 5th respondent during the year 2003-04 and he has produced purchase bills stated to have been issued by 5th respondent. According to the petitioner, Form No. 25 declarations promised by 5th respondent is not issued, because 4th respondent has not issued Form No. 25 book to the 5th respondent. Learned Government Pleader reported that registration of the 5th respondent was canceled on 04/09/2004. Learned counsel for the petitioner contended that cancellation was only on 04/09/2006. In any case, there is no scope for issuing Form No.25 book to a dealer whose registration is canceled. However, since the assessment of the 5th respondent is completed for the year 2003-04, it is for the 4th respondent to consider the said assessment with the statement of accounts produced by the petitioner and 5th respondent and if purchase from petitioner is

accounted and is on record of assessment, there is no reason why 4th respondent should not issue so much of Form 25 declarations to the 5th respondent covering transactions from the petitioner, accounted by 5th respondent. This writ petition is, accordingly, disposed of directing 4th respondent to verify the assessment records of the 5th respondent for the year 2003-04 and if found eligible, 4th respondent will release to 5th respondent so much of the Form No. 25 declarations to cover the purchases accounted by the 5th respondent from the petitioner within a period of one month from the date of production of a copy of this judgment by the petitioner. Petitioner's assessment for the year 2003-04 will be kept pending for another six weeks from now.

Issue photocopy tomorrow itself.

(C.N.RAMACHANDRAN NAIR, JUDGE)

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